

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re: PREMIER OPERATIONS, LTD.,

Debtor.

-----X
LOMBARDI'S SEAFOOD, INC.,

Appellant,

-v-

PREMIER OPERATIONS, LTD.,

Appellee.
-----X

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 5/31/05

04 Civ. 9778 (GEL)

ORDER

GERARD E. LYNCH, District Judge:

The notice of appeal for the above-captioned action was filed on December 13, 2004. According to Federal Rules of Bankruptcy Procedure, "the appellate shall serve and file a brief within 15 days after entry of the appeal on the docket." Fed. R. Bankr. P. 8009(a). To date, appellant has filed no brief. The time limitations imposed by Rule 8009 are not jurisdictional, and therefore, the district court is not required automatically to dismiss a party's appeal if it fails to meet the deadlines. In re Tampa Chain Co., 835 F.2d 54, 55 (2d Cir. 1987). Other district courts have dismissed bankruptcy appeals based upon prolonged delays in submitting appellate briefs. See, e.g., In re Vega, 93 Civ. 0083 (LLS), 1995 WL 254398 (S.D.N.Y. May 1, 1995); In re Gluck, 03 Civ. 1905 (FB), 2003 WL 22324898 (E.D.N.Y. 2003). Accordingly, appellant's neglect of this appeal for over five months warrants dismissal. It is hereby

ORDERED that the appeal is dismissed.

SO ORDERED.

Dated: New York, New York
May 26, 2005


GERARD E. LYNCH

United States District Judge